

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION

MAGNOLIA ISLAND PLANTATION,
L.L.C.; AND BARBARA MARIE CAREY
LOLLAR

CIVIL ACTION NO. 5:18-CV-1526

DISTRICT JUDGE: S. MAURICE HICKS, JR.

VERSUS

MAGISTRATE JUDGE: KAREN L. HAYES

LUCKY FAMILY, L.L.C., ET AL.

JURY TRIAL DEMANDED

**DAUBERT MOTION TO EXCLUDE
TESTIMONY OF JOHN W. DEAN**

NOW INTO COURT, through undersigned counsel, comes LUCKY FAMILY, L.L.C. (“Lucky Family”), which moves this Court to exclude the testimony of Plaintiff’s expert witness, John W. Dean, as follows:

1. This motion will be rendered moot if the Court grants summary judgment dismissing the plaintiffs’ actions to annul and rescind the October 24, 2018 Sheriff’s Sale of the Promissory Note. The defendants’ motions for summary judgment for dismissal of those actions are pending. However, the existing scheduling order (Doc. No. 137) requires that this motion be filed at this time.

2. Mr. Dean is a certified public accountant and appraiser. As appraiser for plaintiff Ms. Barbara Lollar, Mr. Dean appraised the promissory note for the sheriff’s sale which plaintiffs have sought to annul by this action.

3. Mr. Dean seeks to provide opinions concerning the appraisal made by defendant W. A. Lucky, III’s appointed appraiser, Mr. Chad Garland. Mr. Dean also seeks to provide an opinion concerning the appraisal made by the Sheriff’s appointed appraiser, Mr. Patrick Lacour.

4. Such an opinion is wholly irrelevant to any issues presented in this case, for several reasons. First, Louisiana law does not support any attack upon an appraisal based on the charge that the appraisal does not accurately reflect the valuation of the property. Second, Louisiana's statutory scheme for appraisals such as this is expressly designed to prevent subsequent collateral attacks on the accuracy of appraisals. Third, Mr. Dean, who agrees that Mr. Lacour used the appropriate general methodology in performing the appraisal, does not opine that the Mr. Lacour's appraisal was not "true and just," which is the statutory requirement.

5. Further, Lucky Family herein adopts and submits to this Court by reference, the *Memorandum in Support of Daubert Motion to Exclude Opinions of John W. Dean* (Doc. No. 143-1) which has been filed this date by counsel for Mr. William A. Lucky, III, *in toto*.

WHEREFORE, LUCKY FAMILY, L.L.C. prays that its motion be granted, and the expert opinions of John W. Dean excluded from evidence at the trial of this matter.

Respectfully submitted,

The Touchstone Law Firm

By: /s/ David M. Touchstone

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COUNSEL FOR LUCKY FAMILY, L.L.C.

(certificate on next page)

CERTIFICATE

I HEREBY CERTIFY that, on March 20, 2020, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF system which will send a notice of electronic filing to all CM/ECF participants by operation of the Court's electronic filing system.

/s/ David M. Touchstone
OF COUNSEL